



Ajit Pai
Commissioner

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

August 1, 2016

Mr. Chris Henderson
Chief Executive Officer
Universal Service Administrative Company
2000 L Street NW, Suite 200
Washington, DC 20036

Dear Mr. Henderson,

Thank you very much for your letters dated June 14 and July 14 regarding the waste, fraud, and abuse that has riddled the Universal Service Fund's Lifeline program since wireless resellers began participating in this program in earnest in 2009. I appreciate your diligence.

My letters thus far have explained our investigation into Total Call Mobile and its apparent exploitation of loopholes in the National Lifeline Accountability Database (NLAD), which is supposed to protect taxpayer funds. My inquiry today concerns the ability of unscrupulous wireless resellers to avoid the safeguards of the NLAD altogether.

In your May 18 letter, you explained that the NLAD does not prevent wireless resellers from requesting and receiving federal subsidies for subscribers who are not enrolled in the NLAD. Specifically, you explained that a wireless reseller receives support based on the number of subscribers it claims on Form 497—not based on the number of subscribers enrolled in the NLAD. You further explained that the NLAD does not automatically verify a wireless reseller's claimed number of subscribers each month but that USAC can compare these numbers on a case-by-case basis.

In other words, a wireless reseller may seek federal funds for subscribers who aren't subject to federal safeguards at all. These "subscribers" might be actual customers whose Lifeline eligibility has not been verified through the NLAD. Or they might be phantom customers who do not even exist. In either case, the reseller can get away with receiving federal funds unless they're caught after the fact.

In your June 14 letter, you confirmed that certain wireless resellers did indeed exploit this loophole. To take the most egregious example, [REDACTED] in May 2016 claimed it served 31,525 more [REDACTED] subscribers than recorded in the NLAD. And this month was no outlier. That same wireless reseller claimed, on average, 22,325 more subscribers on its Form 497 than appeared in the NLAD, exploiting this loophole 446,513 times between October 2014 and the present. One other wireless reseller, [REDACTED], used this loophole 5,918 times in [REDACTED]. Among the other 14 wireless resellers surveyed, six claimed subsidies for more subscribers than recorded in the NLAD a total of 7,601 times, and eight others appear not to have relied on the loophole at all.

If American taxpayers are to have faith in the Universal Service Fund, they must know that the Lifeline program only supports actual, eligible subscribers, not phantoms. To that end, I request that you provide my office with the following information:

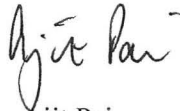
1. In your June 14 letter, you explained that "ETCs report their total subscribers at a particular point in time on each FCC Form 497," but that it "is not possible to match the count of subscribers in NLAD at the exact point in time that subscribers were counted by a carrier." As such, USAC's

NLAD enrollment numbers conservatively include every “subscriber ever attributed to each carrier in NLAD during the calendar month.” As such, is there a legitimate reason why a carrier could submit a higher subscriber count on its Form 497 than in the NLAD enrollment numbers you provided? If not, please explain whether USAC plans to recover any improperly paid subsidies.

2. The vast majority of unverified or phantom subscribers are attributable to one reseller, [REDACTED], with a significant number attributable to another, [REDACTED]. For each month from October 2014 to the present, please provide the number of subscribers in the NLAD as well as the number of subscribers reported on relevant Forms 497 for these resellers in every state in which they offered Lifeline service.
3. The vast majority of unverified or phantom subscribers are attributable to one state, [REDACTED], with a significant number attributable to another, [REDACTED]. For each month from October 2014 to the present, please provide the number of subscribers in the NLAD as well as the number of subscribers reported on relevant Forms 497 for every Lifeline carrier that offers service in these states.
4. Please describe what safeguards the program has in place, if any, to ensure that every subscriber claimed on a Form 497 was properly enrolled in the NLAD and assigned by the NLAD to that carrier. To the extent loopholes exist, please explain whether USAC could close those loopholes on its own or whether closing the loophole would require FCC action.
5. Please describe any investigations, audits, or reviews that USAC has conducted from October 2014 to the present that compared a carrier’s subscribers in the NLAD to the number of subscribers it reported on relevant Form(s) 497. Please explain whether any such investigations, audits, or reviews led to referrals to the relevant state commission, to the FCC’s Inspector General, to the FCC’s Enforcement Bureau, or to any other person at the FCC.
6. You have previously explained that USAC compares NLAD data to Form 497 data only on a case-by-case basis. Could you please explain why that is? Would an automatic comparison help detect unverified or phantom subscribers better than case-by-case review? Would it be possible for USAC to compare such data automatically each month, flagging discrepancies for further investigation, audit, or review?
7. Your June 14 letter revealed another problem with the NLAD: bloat. Some of the 16 wireless resellers surveyed had thousands or even tens of thousands of subscribers enrolled in the NLAD who were not claimed on their Forms 497. For example, [REDACTED] in [REDACTED] reported on average 15,931 fewer subscribers on its Forms 497 than it had enrolled in the NLAD. The existence of this bloat makes determining compliance with federal safeguards more difficult. That is because an unscrupulous reseller could increase its reimbursements substantially without subjecting new subscribers to the NLAD’s safeguards—the extra subscribers in the NLAD would mask the fact that the new subscribers claimed on a Form 497 may not in fact be eligible (or may not even exist) and give unscrupulous conduct the aura of legitimacy.
 - a. Please describe the procedures wireless resellers are supposed to follow to de-enroll subscribers from the NLAD.
 - b. Please describe what safeguards exist, if any, to ensure that wireless resellers properly follow those de-enrollment procedures.
 - c. Please describe further any investigations, audits, or reviews that USAC has conducted from October 2014 to the present to verify that wireless resellers are properly de-enrolling subscribers and to remove the non-subscriber bloat from the NLAD.

I appreciate USAC's continued work to protect American taxpayers and safeguard the Universal Service Fund. Given the many millions in taxpayer funds that have already gone to waste, I ask that you respond with the requested information by August 15, 2016. If you have any questions, please feel free to contact Nicholas Degani in my office at (202) 418-2000.

Sincerely,

A handwritten signature in black ink, appearing to read "Ajit Pai". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ajit Pai
Commissioner
Federal Communications Commission